

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:07-00190

CHARLES PALMER

MEMORANDUM OPINION AND ORDER

On December 20, 2007, the United States of America appeared by Kristina D. Raynes, Assistant United States Attorney, and the defendant, Charles Palmer, appeared in person and by his counsel, Christian M. Capece, Assistant Federal Public Defender, for a hearing on the Defendant's Motion for Revocation of Magistrate Judge Stanley's Detention Order, filed on December 5, 2007; the government's response thereto filed on December 6, 2007; and the defendant's reply filed on December 7, 2007.

The court heard the evidence and the representations and argument of counsel.

As stated on the record of the hearing, the court finds by clear and convincing evidence that the defendant is, by virtue of the repetitive and serious nature of his unlawful criminal

conduct occurring over much of his adult lifetime, a danger to the community and that, for the further reasons that follow, no conditions or combination of conditions will assure the safety of the community due to the defendant's proclivity to violate the law: (1) the defendant has previously been convicted of two drug related felonies involving possession with intent to deliver cocaine, one in October 1991 and one in August 1995; (2) the defendant, in September 1993, was convicted of the felony of possession of a firearm without a license; and (3) the defendant, once released to parole on the 1991 and 1993 convictions, violated parole on numerous occasions, by virtue of which his parole was repeatedly revoked.

Added to the reasons stated above is the force of the evidence going beyond probable cause with respect to the offense of felon in possession of a firearm with which the defendant is now charged. That evidence includes the defendant's arrest in a high drug crime area of the city of Charleston at 2:00 a.m. on January 23, 2007, for the possession of two firearms found on his person, at which time the defendant was far from his home located on Highland Avenue in the city of South Charleston. The two weapons so found consisted of a Ruger 9mm handgun and a Raven .25 caliber handgun, one found in his waistband and one found in the

pocket of his hooded sweatshirt. In addition, the defendant smelled of marijuana and was carrying a bag of marijuana.

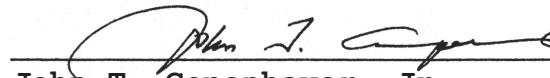
The court also adopts the findings of the magistrate judge, with the exception of the finding that the offense of felon in possession of a firearm is a crime of violence. Rather, the court adopts the rationale of United States v. Singleton, 182 F.3d 7 (D.C. Cir. 1999) and concludes that the offense of felon in possession of a firearm is not, standing alone, a crime of violence when considered for bail purposes. The court further notes that it finds, as did the magistrate judge, that the defendant is not a threat to flee.

It is, accordingly, ORDERED that the defendant's motion for revocation of the magistrate judge's detention order be, and it hereby is, denied.

The defendant was remanded to the custody of the United States Marshal.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department and the United States Marshal.

DATED: December 28, 2007


John T. Copenhaver, Jr.
United States District Judge